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TWELFTH JUDICIAL CIRCUIT

Chesterfield Circuit Court's Guidelines for the Collection of Unpaid Fines and Costs Pursuant to Chapter 21 of Title 19.2 (§§ 19.2-339 through -368) and the Suspension of Driving Privileges Pursuant to § 46.2-395 of the Virginia Code

The purposes of the statutory court collection process¹ are (i) to facilitate the payment of fines, court costs, penalties, restitution and other financial responsibilities assessed against defendants convicted of a criminal offense or traffic infraction, (ii) to collect the monies due to the Commonwealth and localities as a result of these convictions, and (iii) to assure payment of court-ordered restitution to victims of crime.

Given these purposes, the following guidelines have been established:

► Since a court is statutorily required to order a defendant who is unable to pay fines and costs within 30 days to pay those fines and costs “in deferred payments or installments,” verbiage included in the Costs paragraph of court orders will state “If costs cannot be paid in full within 30 days of sentencing, the defendant must enter into a deferred or installment payment plan agreement.” Va. Code § 19.2-354 A.

► Eligibility for a payment agreement is not restricted based on the type of offense which resulted in the fine and costs or the nature of the financial obligation (e.g., restitution, penalty, etc.). All unpaid fines and costs, of whatever source or type, are eligible.

► Defendants are offered the option of deferred payment plans if 90 days or less are needed to pay in full, or installment payment plans if more than 90 days are needed. Va. Code § 19.2-354 A. 2

¹ The collection process applies to court-ordered “fines, court costs, forfeitures, restitution, and penalties.” Va. § 46.2-395. For convenience, when this policy refers to “fines and costs,” reference to these other types of debts is also intended.

► Defendants who have unpaid fines and costs in more than one court will need to pay or establish payment plans with respect to each court in order to remove the suspension of their driving privileges. Accordingly, the defendant's other obligations will be considered when determining the amount needed for installment payments. Defendants are required to provide proof of payment plans with each court.

► Since "installment or deferred payment agreements shall include terms for payment if the defendant participates in a community service program," a viable community service program has been established as an option for suitable participants in deferred or installment payment plans. If court-ordered, any portion of the community service completed will be credited to the defendant's obligations upon receipt of verification of completion from the community service coordinator. Va. Code § 19.2-354 A and C

► A down payment is not required to enter into an initial payment plan when the agreement sets forth deferred payments.

► A defendant who has defaulted on a payment plan has the statutory right to approach the court seeking entry into a new payment plan. Va. Code § 46.2-395 B

► If a subsequent payment plan is granted and the reinstatement fee is paid to the Department of Motor Vehicles, the defendant's driver's license "shall thereby be restored." Va. Code 46.2-395 B

► No driver's license suspension should occur while a defendant is in good standing on a deferred or installment payment plan.

► If a payment plan defaults, a down payment is required to enter into a subsequent payment plan, if granted.

► If a defendant defaults on an initial payment plan, the defendant is not required to establish a payment history before entering into a subsequent payment plan, if granted.

► A defendant whose fines and costs have been referred to the collection process under Virginia Code § 19.2-349 shall nevertheless be eligible to enter into an initial or subsequent payment plan, if granted.